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**Report of the Special Committee on the Charter of the
United Nations and on the Strengthening of the Role
of the Organization**

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

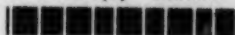
Report of the Secretary-General**

Summary

The present report has been submitted pursuant to paragraph 12 of General Assembly resolution 58/80 of 9 December 2003. It highlights the measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions; reviews the capacity and modalities within the Secretariat for implementing the intergovernmental mandates and for addressing the main findings, including recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions (A/53/312, chap. IV); and also reviews recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions.

* A/59/150.

** The present report was submitted after the established deadline in order to take into account the outcomes of the substantive session of the Economic and Social Council of 2004.



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I. Introduction

1. At its fifty-eighth session, the General Assembly adopted, without a vote, resolution 58/80 of 9 December 2003, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions". In that resolution, the Assembly, *inter alia*:

(a) Renewed its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States that were or might be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;

(b) Welcomed the measures taken by the Security Council since the adoption of General Assembly resolution 50/51 of 11 December 1995, most recently the note by the President of the Council of 15 January 2002 (S/2002/70),¹ whereby the members of the Council had agreed to extend the mandate of the informal working group of the Council established in 2000 (S/2000/319) to develop general recommendations on how to improve the effectiveness of United Nations sanctions, looked forward to the adoption of the proposed outcome document of the working group, in particular those provisions thereof regarding the issues of the unintended impact of sanctions and assistance to States in implementing sanctions, and strongly recommended that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that found themselves confronted with special economic problems arising from the carrying out of sanctions;

(c) Invited the Security Council, its sanctions committees and the Secretariat to continue to ensure, as appropriate, that (i) both pre-assessment reports and ongoing assessment reports included as part of their analysis the likely and actual unintended impact of the sanctions on third States and recommended ways in which the negative impact of sanctions could be mitigated; (ii) sanctions committees provided opportunities for third States affected by sanctions to brief them on the unintended impact of sanctions they were experiencing and on assistance needed by them to mitigate the negative impact of sanctions; (iii) the Secretariat continued to provide, upon request, advice and information to third States to help them to pursue means to mitigate the unintended impact of sanctions, for example, on invoking Article 50 of the Charter for consultation with the Council; (iv) where economic sanctions had had severe effects on third States, the Council was able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the ground to undertake necessary assessments and to identify, as appropriate, possible means of assistance; and (v) the Council was able, in the context of situations referred to in subparagraph (iv) above, to consider establishing working groups to consider such situations;

(d) Requested the Secretary-General to pursue the implementation of General Assembly resolutions 50/51, 51/208 of 17 December 1996, 52/162 of

15 December 1997, 53/107 of 8 December 1998, 54/107 of 9 December 1999, 55/157 of 12 December 2000, 56/87 of 12 December 2001 and 57/25 of 19 November 2002 and to ensure that the competent units within the Secretariat developed the adequate capacity and appropriate modalities, technical procedures and guidelines to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions, to continue developing a possible methodology for assessing the adverse consequences actually incurred by third States and to explore innovative and practical measures of assistance to the affected third States;

(e) Welcomed the report of the Secretary-General (A/53/312) containing a summary of the deliberations and main findings of the ad hoc expert group meeting on developing a methodology for assessing the consequences incurred by third States as a result of preventive or enforcement measures and on exploring innovative and practical measures of international assistance to the affected third States, and renewed its invitation to States and relevant international organizations within and outside the United Nations system that had not yet done so to provide their views regarding the report of the ad hoc expert group meeting;

(f) Took note of the most recent report of the Secretary-General on the question (A/58/346) and, in particular, of his views on the deliberations and main findings, including the recommendations of the ad hoc expert group on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, as well as the views of States, the organizations of the United Nations system, international financial institutions and other international organizations, as contained in the previous reports of the Secretary-General (A/54/383 and Add.1, A/55/295 and Add.1 and A/57/165 and Add.1);

(g) Reaffirmed the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts of the international community and the United Nations system on behalf of States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

(h) Took note of the decision of the Economic and Social Council, in its resolution 2000/32 of 28 July 2000, to continue its consideration of the question of assistance to third States affected by the application of sanctions, invited the Council, at its organizational session for 2004, to make appropriate arrangements for that purpose within its programme of work for 2004, further invited the Council to continue its consideration of the question of assistance to third States affected by the application of sanctions, and decided to transmit the most recent report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions, together with the relevant background materials, to the Council at its substantive session of 2004;

(i) Invited the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to address more specifically and directly, where appropriate, the special economic problems of third States affected by sanctions imposed under

Chapter VII of the Charter and, for that purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

(j) Requested the Secretary-General to submit a report on the implementation of the resolution to the General Assembly at its fifty-ninth session.

2. The present report has been prepared in response to the request contained in paragraph 12 of General Assembly resolution 58/80 (see para. 1 (j) above).

II. Measures for further improvement of the procedures and working methods of the Security Council and its sanctions committees related to assistance to third States affected by the application of sanctions

3. As noted in the 2003 report of the Secretary-General (A/58/346), the deliberations of the Security Council Informal Working Group on General Issues of Sanctions have addressed, *inter alia*, the question of improving the procedures and working methods of the Council and its sanctions committees related to assistance to third States affected by the application of sanctions. In a letter dated 19 December 2003 to the President of the Council (S/2003/1197), the outgoing Chairman of the Working Group transmitted to the Council in the annex thereto the text of his final report on the work of the Working Group for the period 2002-2003, as adopted by consensus at the Working Group's last meeting on 16 December 2003. Under his chairmanship, the Working Group had held several formal and informal meetings in order to finalize its proposed outcome document. The issues discussed by the Working Group included the degree of access to the sanctions committees by States affected by the unintended consequences of sanctions, as well as assistance to third States affected by sanctions. The Working Group had reached provisional agreement with regard to a number of proposals, among which were: that the Council would, in all relevant cases, seek pre-assessment reports before the adoption of new sanctions regimes; and that the Council might also consider appointing special representatives or dispatching fact-finding missions to assess the effects of sanctions on third States and to identify possible ways of assisting those States.

4. At its 4888th meeting, held on 22 December 2003, the Security Council heard a briefing by the outgoing Chairman of the Informal Working Group on General Issues of Sanctions (S/PV.4888). In his briefing, the Chairman reiterated that among the issues preoccupying the Working Group had been: how to enable States suffering the unwanted effects of sanctions to have access to sanctions committees; and what assistance could be provided to third States affected by the application of sanctions. While the Working Group had been operating on the principle that there would be no agreement on any part of the proposed outcome document until agreement was reached on the entire text, the Working Group had nonetheless reached provisional agreement on most of the draft text, with the exception of the issues of the duration and the termination of sanctions.

5. In a note dated 18 December 2003 (S/2003/1185), the President of the Security Council observed that, after consultations among the members of the Council, it had

been agreed that the mandate of the Informal Working Group on General Issues of Sanctions should be extended until 31 December 2004. In a note dated 8 January 2004 (S/2004/5), the President of the Council further observed that, following consultations among the members of the Council, it had been agreed that Ambassador Joël W. Adechi (Benin) would serve as Chairman of the Working Group for the period ending 31 December 2004. The Working Group's proposed outcome document thus remains under consideration, with focus being placed on those issues upon which there is no provisional agreement.

6. During the reporting period there were no pre-assessment reports or ongoing assessment reports of the likely and actual unintended impact of sanctions on third States. Nevertheless a number of reports mandated by the Security Council touched upon the humanitarian and socio-economic consequences of sanctions. In a report dated 5 August 2003 (S/2003/793), submitted pursuant to Council resolution 1478 (2003) of 6 May 2003 concerning Liberia, the Secretary-General had provided observations and recommendations on the possible humanitarian and socio-economic impact of the timber sanctions imposed against Liberia. In a letter dated 7 August 2003 from the Acting Chairman of the Security Council Committee established pursuant to resolution 1343 (2001) concerning Liberia addressed to the President of the Council, the Acting Chairman of the Committee transmitted to the members of the Council the report of the Panel of Experts pursuant to paragraph 25 of Security Council resolution 1478 (2003) concerning Liberia (S/2003/779, annex, enclosure). In that report, the Panel of Experts also outlined its observations and recommendations concerning the possible humanitarian and socio-economic impact of the timber sanctions imposed on Liberia.

7. In its resolution 1521 (2003) of 22 December 2003, the Security Council requested the Panel of Experts on Liberia to report with observations and recommendations including, inter alia, how to minimize any humanitarian and socio-economic impact of timber sanctions against Liberia. In a report (S/2004/396 and Corr.1, annex, enclosure) transmitted in a letter dated 1 June 2004 from the Chairman of the Committee to the President of the Council, the Panel of Experts outlined various observations and recommendations relating to the humanitarian and socio-economic impact of the timber sanctions.

8. In the period under review, no sanctions committees were approached by Member States concerning special economic problems arising from the implementation of sanctions. However, on 15 December 2003, several Member States did attend an informal meeting of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities, in order to address alleged inaccuracies contained in the second report completed by the Monitoring Group established pursuant to Security Council resolution 1363 (2001) and mandated by the Council to monitor the implementation of the measures imposed against Al-Qaida and the Taliban (S/2003/1070 and Corr.1, annex, enclosure). Although the sanctions measures imposed against Al-Qaida and the Taliban and associated individuals and entities are targeted in nature and have not in themselves been cited as causing special economic problems, one of the States appearing before the Committee had argued that the allegations levelled against it by the Monitoring Group might result in decreased tourism, thus causing an adverse effect upon its economy. In this connection, it is interesting to note that in paragraph 11 of resolution 1526 (2004), of 30 January 2004, the Council had requested the Committee to follow up with

States regarding effective implementation of the sanctions measures and to provide States with an opportunity, at the Committee's request, to send representatives to meet with the Committee for more in-depth discussion of relevant issues.

9. As noted in paragraph 5 of the previous report of the Secretary-General (A/58/346), in its resolution 1483 (2003) of 22 May 2003, the Security Council had decided to terminate all prohibitions related to trade with Iraq and the provision of financial or economic resources to Iraq established by resolution 661 (1990) and subsequent relevant resolutions, including resolution 778 (1992). In the same resolution, the Council also decided to maintain the prohibitions related to the sale or supply to Iraq of arms and related material. In resolution 1483 (2003), the Council had also imposed targeted financial sanctions against individuals and entities associated with the former Iraqi regime.

10. In resolution 1483 (2003), the Security Council had further decided that the Committee established pursuant to paragraph 6 of resolution 661 (1990) would terminate six months later. By resolution 1518 (2003) of 24 November 2003, the Council established a new Committee to administer the targeted financial sanctions imposed by resolution 1483 (2003). As a result of the modifications made to the Iraq sanctions since May 2003, all of the Council's existing sanctions regimes are now targeted in nature and therefore the unintended consequences for civilian populations and third States are minimized.

III. Review of the capacity and modalities of the Secretariat for implementing the intergovernmental mandates and recommendations of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions

11. The Secretary-General has taken note of paragraph 4 of General Assembly resolution 58/80 (see para. 1 (d) above). In this regard, he would note that the arrangements put in place in the Secretariat in 1996, as described in his report of that year (A/51/317, paras. 4-11), as well as in the 1997 and 2002 reports (A/52/308, para. 5, and A/57/165, para. 9, respectively), continue to apply. It should be noted that, since these arrangements were based on "existing resources", the overall budgetary resources currently available to the departments concerned would have to be maintained in the future.

12. It is also understood that the existing arrangements for interdepartmental cooperation do not preclude further cooperation between the relevant departments, as appropriate, and that the setting in motion of the functions contemplated in several subparagraphs of paragraph 3 of General Assembly resolution 50/51 depends on a request by the Security Council, its organs or interested Member States.

13. The Secretary-General has provided, and will continue to provide, his full support for the intergovernmental deliberations on issues under review, as well as his views and recommendations as required, in order to ensure the implementation of relevant intergovernmental mandates in a timely and efficient manner.

IV. Views provided by Governments and relevant international organizations regarding the report of the ad hoc expert group meeting and related issues of international assistance to third States affected by the application of sanctions

14. Regarding paragraphs 5 and 9 of General Assembly resolution 58/80 (see paras. 1 (e) and 1 (i) above), no further comments have been received concerning the report of the ad hoc expert group meeting on assistance to third States affected by the application of sanctions (see A/53/312, sect. IV) beyond those summarized in documents A/54/383 and Add.1 and A/55/295 and Add.1.

V. Recent developments related to the role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in the area of assistance to third States affected by the application of sanctions

15. Pursuant to paragraph 7 of General Assembly resolution 58/80 (see para. 1 (g) above), the Assembly, the Economic and Social Council and the Committee for Programme and Coordination have continued to play their respective roles in the area of assistance to third States affected by the application of sanctions.

General Assembly

16. At its fifty-eighth session, the General Assembly had before it the report of the Secretary-General on economic assistance to the Eastern European States affected by the developments in the Balkans (A/58/358 and Corr.1). The Assembly did not take any action on this report.

Economic and Social Council

17. In a note dated 1 June 2004 on assistance to third States affected by the application of sanctions (E/2004/72), the Secretary-General drew the attention of the Economic and Social Council to General Assembly resolution 58/80, in particular to paragraph 8 thereof (see para. 1 (h) above) in which the Assembly had transmitted to the Council the previous report in this series (A/58/346).

18. At its substantive session of 2004, held in New York from 28 June to 23 July 2004, the Economic and Social Council adopted decision 2004/301 of 23 July 2004, in which it took note of the note by the Secretary-General (E/2004/72) and the report transmitted by the General Assembly (A/58/346).

Committee for Programme and Coordination

19. The Committee for Programme and Coordination (CPC), at its forty-fourth session in June-July 2004, considered the annual overview report of the United

Nations System Chief Executives Board for Coordination (CEB) for 2003 (E/2004/67). At the request of CPC, the report had included a section on assistance to countries invoking Article 50 of the Charter of the United Nations. The report had noted that, as reflected in previous reports of the Secretary-General, the relevant components of the United Nations system and related organizations, including the international financial institutions, remained committed to responding positively to requests for assistance to States confronted with special economic problems as a result of implementing preventive or enforcement measures imposed by the Security Council.

20. In presenting the overview report to CPC, the representative of the CEB secretariat reiterated the view that, while the issue of assistance to countries invoking Article 50 of the Charter of the United Nations remained important and affected countries deserved the support of the international community, this matter was best addressed in intergovernmental forums, particularly in the Security Council, the Economic and Social Council and the General Assembly, in the context of reports of the Secretary-General specifically focused on that issue.

Notes

¹ See *Resolutions and Decisions of the Security Council, 1 January 2001-31 July 2002*.